

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

№ 7623/04

To:

PCT

see form PCT/ISA/220

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
PCT/EP2004/013083

International filing date (day/month/year)  
18.11.2004

Priority date (day/month/year)  
18.11.2003

International Patent Classification (IPC) or both national classification and IPC  
C12M1/00

Applicant  
NESTEC S.A.

### 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

### 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

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PCT/EP2004/013083

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**Box No. 1 Basis of the opinion**

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1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:  
☐ a sequence listing  
☐ table(s) related to the sequence listing
  - b. format of material:  
☐ in written format  
☐ in computer readable form
  - c. time of filing/furnishing:  
☐ contained in the international application as filed.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

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PCT/EP2004/013083

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**Box No. V Reasoned statement under Rule 43b/s.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	1-9
	No: Claims	
Inventive step (IS)	Yes: Claims	1-9
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-9
	No: Claims	

2. Citations and explanations

**see separate sheet**

**Re Item V.**

- 1** Reference is made to the following document:

D1 : FR 2 519 020 A (SPOFA VEREINIGTE PHARMA WERKE) 1 July 1983 (1983-07-01)

- 2** The present application does meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1 to 9 is new in the sense of Article 33(2) PCT and involves inventive activity in the sense of Article 33(3) PCT.

- 2.1** Document D1 which is considered to represent the closest prior art discloses a cell culture apparatus (ref. fig. 1 to 4) comprising a flexible culture chamber (7) and a wave induction mechanism (1 to 4).

The subject matter of claim 1 **differs** from the disclosure of D1 in that the wave induction mechanism lifts up only 5 to 50% of the length of the culture chamber. The subject matter of claim 1 is therefore new.

- 2.2** Scale up of the apparatus is very easy to achieve from small volumes to several hundred litres since the wave induction mechanisms does not support the entire culture chamber but have only to raise at least one extremity of the culture chamber. The subject matter of claim 1 is therefore considered to involve inventive activity.
- 2.3** The subject matter claims 2 to 9 is dependent on independent claim 1 and is also considered to comply with the requirements of Article 33(1) PCT.